

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

JUAN M. BARRERA,  
Plaintiff,

Case No. 6:12-cv-01631-CL  
**ORDER**

vs.

COMMISSIONER OF SOCIAL SECURITY,<sup>1</sup>  
Defendant.

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AIKEN, Judge:

On June 7, 2018, Magistrate Judge Clarke filed his Findings and Recommendation ("F&R"), recommending that this Court grant in part plaintiff Juan Barrera's Motion for Attorney Fees Pursuant to 42 U.S.C. § 406(b) and award plaintiff's counsel \$41,951.52 in attorney's fees. The F&R is now before me pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72. I review *de novo* those portions of the R&R to which objection is made. 28 U.S.C. § 636(b)(1)(C); *accord* Fed. R. Civ. P. 72(b)(3); *Holder v. Holder*, 392 F.3d 1009, 1022 (9th Cir.

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<sup>1</sup> Nancy A. Berryhill's term as the Acting Commissioner of the Social Security Administration ended on November 17, 2017, and a new Commissioner has not been appointed. The official title of the head of the Social Security Administration is the "Commissioner of Social Security." 42 U.S.C. § 902(a)(1). A "public officer who sues or is sued in an official capacity may be designated by official title rather than by name[.]" Fed. R. Civ. P. 17(d). I therefore refer to defendant only as Commissioner of Social Security.

2004). I find no error in Judge Clarke's careful and thorough opinion. I therefore ADOPT Judge Clarke's F&R (doc. 30). Plaintiff's counsel is entitled to \$41,951.52 in attorney's fees pursuant to 42 U.S.C. § 406(b). Subtracting the \$6,133.28 EAJA fee award previously granted to plaintiff's counsel, the Commissioner is directed to pay \$35,818.24 to plaintiff's counsel from the sum withheld by the Commissioner from plaintiff's benefits and pay the remainder to plaintiff.

IT IS SO ORDERED.

Dated this 25 day of June 2018.

A handwritten signature in cursive script, reading "Ann Aiken".

Ann Aiken  
United States District Judge